

Message

From: Grossarth, Shari [Grossarth.Shari@epa.gov]
Sent: 12/3/2020 4:16:16 PM
To: Beck, Whitney [beck.whitney@epa.gov]; Nurse, Leanne [Nurse.Leanne@epa.gov]
CC: Hurlid, Kathy [Hurlid.Kathy@epa.gov]
Subject: RE: Early Draft of Florida CWA 404 Good Cause Final Rule

Hi Whitney,

I have several packages here for review right now and haven't even gotten to the FRN. Leanne will be the one to advise on the statutes and EOs though. I will hopefully finish an air package that needs immediate review this afternoon and then will take a quick look at the FRN!

Shari
202-566-2242

From: Beck, Whitney <beck.whitney@epa.gov>
Sent: Thursday, December 03, 2020 11:07 AM
To: Nurse, Leanne <Nurse.Leanne@epa.gov>; Grossarth, Shari <Grossarth.Shari@epa.gov>
Cc: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: RE: Early Draft of Florida CWA 404 Good Cause Final Rule

Hi Leanne and Shari,

I wanted to check in and see if OP has early feedback on the FRN, since we're on quite the time crunch. We need to share with OW IO and my management in the next day or two, since we're ideally aiming for signature on 12/18.

Thanks again for all of your help!

Best,
Whitney

From: Nurse, Leanne <Nurse.Leanne@epa.gov>
Sent: Tuesday, December 1, 2020 1:53 PM
To: Beck, Whitney <beck.whitney@epa.gov>; Grossarth, Shari <Grossarth.Shari@epa.gov>
Cc: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: Re: Early Draft of Florida CWA 404 Good Cause Final Rule

This looks like your on the right track. Thank you for this update.

From: Beck, Whitney <beck.whitney@epa.gov>
Sent: Tuesday, December 1, 2020 1:51 PM
To: Nurse, Leanne <Nurse.Leanne@epa.gov>; Grossarth, Shari <Grossarth.Shari@epa.gov>
Cc: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: RE: Early Draft of Florida CWA 404 Good Cause Final Rule

Thanks Leanne! Just to keep you in the loop, here's what we've been working on. Feel free to call anytime if you or your management have questions for us.

- Get this action tiered with OP AA approval
 - We've filled out a tiering form proposing Tier 3 and have added our rule to the ADP tracker; we're hoping the rule will get tiered in the December tiering round.

- Submit a Non-significance determination request in ADP tracker under the "OMB determination" milestone and also send the NSD request as a Word document attachment to the desk officer (me), cc Darryl Adams (tiering coordinator).
 - We've developed a NS determination which has been approved by our office director, and we are meeting with OW IO tomorrow to discuss the process for getting Dave Ross approval. After his approval, we'll upload into the ADP tracker and send an email as requested.
- Submit a EO 13771 3C waiver for not having been published in the Reg Agenda [I'll discuss with Mary tomorrow]
 - I believe this is folded into the NS determination form that Darryl provided last week, as we did fill out a justification statement for the waiver in that form.

From: Nurse, Leanne <Nurse.Leanne@epa.gov>

Sent: Tuesday, December 1, 2020 1:35 PM

To: Beck, Whitney <beck.whitney@epa.gov>; Grossarth, Shari <Grossarth.Shari@epa.gov>

Cc: Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Subject: Re: Early Draft of Florida CWA 404 Good Cause Final Rule

Whitney,

This is some preliminary feedback (apologies for duplicating information you may already have). You need to:

- Get this action tiered with OP AA approval
- Submit a Non-significance determination request in ADP tracker under the "OMB determination" milestone and also send the NSD request as a Word document attachment to the desk officer (me), cc Darryl Adams (tiering coordinator).
- Submit a EO 13771 3C waiver for not having been published in the Reg Agenda [I'll discuss with Mary tomorrow]

From: Beck, Whitney <beck.whitney@epa.gov>

Sent: Tuesday, December 1, 2020 12:41 PM

To: Grossarth, Shari <Grossarth.Shari@epa.gov>; Nurse, Leanne <Nurse.Leanne@epa.gov>

Cc: Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Subject: Early Draft of Florida CWA 404 Good Cause Final Rule

Hi Shari and Leanne,

As I mentioned last week, OW is planning to issue a final rule if EPA approves Florida's request to assume a CWA section 404 program. The final rule just got entered into the ADP tracker last week and doesn't even have a SAN- but it's called "Codifying EPA's Adjudicatory Decision on Florida's Clean Water Act Section 404 Program Request."

EPA has to make a decision by December 17, and R4 will submit a (non-rulemaking) FRN communicating that decision. OW would like to issue the final rule ASAP after that decision. The final rule would be issued without notice and comment for good cause (we've been in contact with Mary on good cause rules), and we're routing a non-significance determination to OP soon (we've been in contact with Darryl & Leanne).

Because of the quick timeframe, we wanted to provide a VERY EARLY DRAFT FRN sooner than later to get your feedback. You'll see some comments for the OW/R4 FL team (still getting their feedback!) but also some sections where I particularly wanted to get early OP feedback. For instance, we know the E.O. & Statutory requirements section is different for good cause final rules. The good cause guidance that Mary provided has some limited information about how to structure that section. We did find an example good cause rule from 2015 that I used as a template (attached), and I'm curious to know if anything looks like it's missing?

I also wanted to make sure we're on the right track with the reg text formatting (I know we can perfect later since OW will still have more edits...).

Please let me know what questions I can answer, and if you need additional information.

Best,
Whitney

Whitney Beck, Ph.D.
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